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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GREY, CHRISTOPHER P

ART UNIT PAPER NUMBER

2667

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,193

Applicant(s)

DISPENSA ET AL.

Examiner

Christopher P. Grey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 4, 6, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hermann (WO 01/03324) in view of Heath (US 6842437).

Claim 1, 6 Herrmann discloses a downstream transmission system configured to transmit downstream wireless communications to a user over a plurality of downstream channels', and an upstream receiver system configured to receive upstream wireless communications from the user over a plurality of upstream channels (Page 4 lines 14-31), the plurality of upstream channels including more than one contention channel (page 4 line 32-34) and a plurality of bearer channels, the upstream receiver system further configured to receive requests from the user over the more than one contention channel (page 6 lines 26-page 7 line4)

Hermann does not specifically disclose the requests are for access to the plurality of bearer channels for the upstream wireless communications.

Heath discloses the requests are for access to the plurality of bearer channels for the upstream wireless communications (Col 2 lines 58-Col 3 lines17 and Col 9 line 59-Col 10 line 18).

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It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the base station as disclosed by Hermann to contain a processor for processing bandwidth requests as disclosed by Heath.

Furthermore it would have been obvious to one of the ordinary skill in the art at the time of the invention to equate the request as disclosed by Hermann and Heath. The motivation for this modification is to allow the allocation of bandwidth on demand by using a number of contention channels (Col 1 lines 13-20 and Col 2 lines 13-21).

Claim 3, 8 Hermann discloses the downstream wireless communications and the upstream wireless communications are in a Multichannel Multipoint Distribution Service (MMDS) frequency range (Col 4 lines 14-31).

Claim 4, 9 Hermann discloses each upstream channel having a dedicated bandwidth (Col 8 lines 5-10). It would have been an obvious matter of design choice to have a bandwidth of less than 200 kHz, since such a modification would have involved a mere change in the size of a component. A change in the size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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2. Claims 2, 5, 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hermann (WO 01/03324) in view of Heath (US 6842437) in further view of Varma et al. (US 6275497), hereinafter referred to as Varma.

Claim 2, 7 The combined teachings of Hermann and Heath do not specifically disclose splitting the plurality of upstream channels into a first group of upstream channels and a second group of upstream channels, the first group of upstream channels includes a first one of the more than one contention channel and a first portion of the plurality of bearer channels, the second group of upstream channels includes a second one of the more than one contention channel and a second portion of the plurality of bearer channels, transfer first upstream communications over the first group of upstream channels, and transfer second upstream communications over the second group of upstream channels', a first upstream manager system configured to receive first requests over the first one of the more than one contention channel, the first requests are for access to the first portion of the plurality of bearer channels, and grant the user access to the first portion of the plurality of bearer channels responsive to the first requests', and a second upstream manager system configured to receive second requests over the second one of the more than one contention channel, the second requests are for access to the second portion of the plurality of bearer channels, and grant the user access to the second portion of the plurality of bearer channels responsive to the second requests.

Varma discloses splitting the plurality of upstream channels into a first group of upstream channels and a second group of upstream channels, the first

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group of upstream channels includes a first one of the more than one contention channel and a first portion of the plurality of bearer channels, the second group of upstream channels includes a second one of the more than one contention channel and a second portion of the plurality of bearer channels, transfer first upstream communications over the first group of upstream channels, and transfer second upstream communications over the second group of upstream channels', a first upstream manager system configured to receive first requests over the first one of the more than one contention channel, the first requests are for access to the first portion of the plurality of bearer channels, and grant the user access to the first portion of the plurality of bearer channels responsive to the first requests', and a second upstream manager system configured to receive second requests over the second one of the more than one contention channel, the second requests are for access to the second portion of the plurality of bearer channels, and grant the user access to the second portion of the plurality of bearer channels responsive to the second requests (Col 2 lines 29-51 and Col 5 lines 25-35 and Col 6 lines 37-47 and Col 8 lines 9-15).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the combined teachings of Hermann and Heath, to group the plurality of channels, where each group is defined by a contention channel or polling channel as disclosed by Varma. It would have been obvious to one of the ordinary skill in the art at the time of the invention to group the different contention channels dependent on a parameter within each request, which is similar to the grouping of different polling channels dependent on a level

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measured (Col 2 lines 29-51). The motivation for this modification and hindsight is to allow a user the capability of transmitting data on a channel or plurality of channel dependent on a parameter specified within a request.

Claim 5, 10 The combined teachings of Hermann and Heath disclose granting access to bearer channels for the upstream wireless communications. The combined teachings of Hermann and Heath do not disclose generating a credit and transmitting the credit to the user.

Varma discloses generating a credit and transmitting the credit to the user (Col 7 lines 23-31).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to combine the controller as disclosed by Varma within the base station as disclosed by the combined teachings of Hermann and Heath. The motivation for this modification is to indicate to the users that they may transmit data along the data channels.

Allowable Subject Matter

3. Claims 11-15 are allowed.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- (a) Kraml (US 6490297) discloses enabling any channel of a multi channel communication link to be used for transmission of a control signal to a system component by a system controller.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Grey whose telephone number is (571)272-3160. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571)272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Grey
Examiner
Art Unit 2667

C. Grey
Sept 30, 2005

Chi Pham
CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2200
9/20/05